

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

June 6, 2002

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, June 6, 2002, beginning at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Barr, Chairman; Mr. John Meadows, Vice Chairman; Mrs. Margaret Mailler, Secretary; Mr. James Van Luven; Mr. Eugene Lofdahl; Mr. Maximilian A. Tufts, Jr.; and Ms. Sonja R. Addison. Also present were Mrs. Tracy Gallehr, Assistant County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator, Ms. Holly Meade, Zoning Planner and Ms. Nancy Albert, Office Associate III

**MINUTES:** On motion made by Mr. VanLuven and seconded by Mr. Lofdahl, the May minutes were approved as submitted. Motion carried unanimously.

**LETTERS OF NOTIFICATIONS & PUBLIC NOTICE:** The Zoning Administrator stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners. Mr. Barr asked Ms. Albert to read the Public Hearing Protocol and it was read.

**SPECIAL PERMIT #49052 WENDELL & BEVERLY ENNIS (OWNERS)**

Applicants are requesting special permit approval to locate up to a 15,000 square foot structure to house retail sales/offices. The property is zoned C-1 and is located on Route 17 in Bealeton, Virginia, Lee Magisterial District.

Mr. Hodge stated that a site visit was made this morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Dell Ennis appeared at the meeting representing his special permit. He stated that the report given by Mr. Hodge was correct. He also complimented the staff of the Zoning Office for their assistance. Mr. Ennis indicated that sanitary sewer had been installed and the deceleration lane with curb and guttering has also been installed at the time the animal clinic was built. He indicated that this would be a joint entrance for the animal clinic and his property. Mr. Ennis stated the building he would construct would be compatible with the area.

Mr. VanLuven stated that the approval would be for a building in excess of 5,000 square feet, the size will depend on site layout, parking, landscaping, ect.

Mr. Ennis stated that the building size would be limited due to parking availability and what zoning allows/requires for uses designated for the building.

Mr. VanLuven asked Mr. Ennis if he had looked at the architectural guidelines, which are proposed by the citizens committee as part of the Comprehensive Plan review, which is currently before the Planning Commission.

Mr. Ennis stated he would look at it.

Mr. Lofdahl asked how would you enter the property, and Mr. Ennis said he would use the current entrance, which is VDOT approved.

Mr. Meadows stated that if the special permit is granted, it is good for one year and Mr. Ennis indicated he was aware of the one year limit but he planned to obtain site plan approval which would be valid for five years under the State Code.

No one else spoke in favor or against the application.

On motion made by Mr. VanLuven and seconded by Mrs. Mailler, in application No. 49052, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.
5. The special permit is granted subject to the following conditions, safeguards and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance):

(a) site plan approval

The motion carried unanimously.

**VARIANCE #49363 HARLAND & JANE GREGG (OWNERS)**

Applicants are requesting a variance to the front setback requirements to allow for an addition to their existing dwelling, which was constructed in 1960. The proposed addition will be

located no closer than the existing dwelling. The property is zoned RA and is located at 7428 Leeds Manor Road, Marshall, Virginia, Marshall Magisterial District

Mr. Hodge stated that no site visit was made. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Harland Gregg appeared at the meeting representing his variance. He stated that the report given my Mr. Hodge was correct, and added that the addition would be to enlarge the kitchen and add central heat and air conditioning.

Mr. Meadows asked if Mr. Gregg was aware of the comment made by the Health Department.

Mr. Gregg said he was aware of the comment.

No one else spoke in favor or against the application.

On motion made by Mr. Lofdahl and seconded by Mr. Meadows it was moved to approve the variance based on the Board's findings, after due notice and hearing, as provided by the Code of Virginia Section 15.2-2204:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because: the existing dwelling is nonconforming.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.
5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property is that the current dwelling is nonconforming.
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as amendment to the Ordinance.

9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
10. The minimum variance that is necessary to afford relief is 14 feet and the addition will not be closer to Route 688 than the existing dwelling.

The motion carried unanimously.

**SPECIAL PERMIT #49369 CALVIN L. RITCHIE (OWNER) & ANDY L. WILFONG (LESSEE)**

Applicant is requesting special permit approval to locate a custom meat processing facility on the portion of the property that is zoned I-1. The facility will use less than one (1) acre of the parcel. Applicant also requested special permit approval to conduct retail sales in conjunction with the principal use. The property is zoned I-1 and RA and is located at 5177 Ritchie Road, Bealeton, Virginia, Cedar Run Magisterial District.

Mr. Hodge stated that a site visit was made this morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes. Mr. Hodge showed a drawing of the elevation and floor plan of the facility.

Mr. Andy Wilfong appeared at the meeting representing his special permit. He stated that the report given by Mr. Hodge was correct. He indicated that he was a farmer and had received feedback from local farmers that this type of facility was needed in Fauquier County.

Mr. Meadows asked where the new facility was in conjunction with the current building and Mr. Wilfong indicated the new facility was 150 feet away from the current building.

Mr. Meadows asked if Mr. Wilfong was going to asphalt the road or use something for dust control.

Mr. Wilfong said he had not decided. Mrs. Bowen said the site plan would handle the paving issue or a dustless surface waiver must be applied for and granted.

Mr. Tufts asked how many animals would be at the unloading dock at one time.

Mr. Wilfong said a peak day would be 25 beef cattle. He explained the floor plan using the drawing.

Mr. Meadows asked if there would be food and water while the animals were in the holding area, and Mr. Wilfong said yes.

Mr. Lofdahl asked how many animals would a cell hold and Mr. Wilfong said 3 to 4 animals depending on the animal.

Mr. Meadows stated there were no windows that face the current building. He was concerned about ventilation, and Mr. Wilfong stated there would be, that was an oversight when the plans were drawn.

Mr. Lofdahl asked where the loading and unloading would take place.

Mr. Wilfong said it would be an L shape and only part of the loading and unloading area would be seen.

Mr. Tufts asked what type of vehicles would be bringing in the animals, local haulers and trucks with gooseneck trailers?

Mr. Wilfong said trucks with trailers, but indicated there would be no tractor-trailers.

Mr. Lofdahl asked about refrigeration and Mr. Wilfong indicated there was a cooler and walk-in freezer.

Mr. Meadows asked about where the bedding and waste would be disposed.

Mr. Wilfong indicated that it is a concrete floor, which will have no bedding and would be washed to remove waste.

Mr. Barr indicated that a letter was received from Susannah L. Grove in support of the application and this would be made a part of the record.

No one else spoke in favor or against the application.

On motion made by Mr. Meadows and seconded by Mr. Tufts, in application No. 49369, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006 (1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.

**5-1202 Additional Standards for Retail Sales in Conjunction with Category 16 or 17**

**uses**

1. Retail sales of goods produced on or off the site may be conducted part or of primary use.
2. Retail sales shall represent an activity clearly subordinate to the primary use on the site and shall not involve more than 10% of the gross floor area of the facility (or outdoor area involved in the use, if appropriate).
5. The special permit is granted subject to the following conditions, safeguards and restrictions upon the proposed uses as deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance):
  - (a) must comply with site plan.
  - (b) applicant must adhere to application.

The motion carried unanimously.

On motion made by Mr. Tufts and seconded by Mr. Meadows, in application No. 49369, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006 (1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.
5. The special permit is granted subject to the following conditions, safeguards and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)

The motion carried unanimously.

**SPECIAL PERMIT #49445 ALAN R. & GAIL L.C. ANDERSON (OWNERS)**

Applicant is requesting special permit approval to operate a professional office of three (3) or less employees to provide allergy elimination treatments via acupressure. The property is zoned RC and is located at 6150 Snow Mountain Road, Broad Run, Virginia, Scott Magisterial District.

Mr. Hodge stated that a site visit was made that morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mrs. Gail Anderson appeared at the meeting representing her special permit. She stated that the report given by Mr. Hodge was correct. She also stated she had seven children who kept her busy so she could not have many clients because six of her children were still at home.

Mr. Lofdahl asked if all procedures would be by appointment.

Mrs. Anderson said absolutely. She would not have drop-in clients.

Mrs. Mailler asked if it was correct there would not be a sign, and Mrs. Anderson said there would not be a sign. She will only treat family, friends and a few clients. If the business gets too big she will move it out of her home that her children are her first concern.

Mr. Lofdahl asked how many clients, and she replied there would be a low volume.

Mr. Worth Henley introduced himself as an adjacent property owner, and stated he had a petition from neighbors.

Mr. Barr asked if he could speak for the property owners that signed the petition given to the Zoning Department. He replied that there were several there that wished to speak for themselves.

Mr. Henley stated that all the houses in the subdivision are on a private road. There are 19 lots with 15 families and that the road is maintained by the homeowners. He stated his concern about liability from outside traffic. And felt if the potential zoning request is granted it would have a negative impact on the quality of life. He stated a petition was signed by 11, 1 verbal and 1 abstained. He stated that there were no trespassing signs posted on the road.

Mr. Henley asked for a clarification of a special exception and special permit.

Mr. Meadows stated a special exception was granted by the Board of Supervisors and a special permit was granted by the Board of Zoning Appeals.

Mr. Lofdahl asked how closely the no trespassing on the private road was enforced.

Mr. Henley indicated it was loosely enforced.

Mr. Barr asked Mr. Hodge for the use in RC zoning.

Mr. Hodge said RC was defined by the topography, soil types and slope of the property. Most RC property is north of Route 29 but that residences are allowed in RC zoning and with other uses permitted by a special permit approved by the Board of Zoning Appeals, therefore each case may be looked at individually.

Mr. Richard Tarkir of Misty Ridge Road stated that he graded the road with a large tractor he owned. He stated his background was in design and testing of vehicles. He stated that a typical road grade is 2 1/2% - 5% grade. But that their road is wide and then narrows with a 10% grade and a 20 foot drop that continues to a 17% grade. He said each year he sends letters of instructions of how to drive the road along with the request for funds to maintain the road. He stated his main issues were with the safety of the road, the drop off, liability, dust and the disturbed tranquility.

Mr. Meadows asked if this was the only entrance and Mr. Tarkir said yes.

Mr. Meadows asked how many properties before the Anderson property, and was told there were five properties before the Anderson home.

Mr. Meadows said that is only 25% of the properties.

Mr. Ansel Page said 100% of the traffic will pass over the road.

Mr. Meadows reiterated that only 25% of the properties are before the Anderson property, that her clients would not travel the entire road.

Mr. Alan Anderson, husband of the applicant, said the neighbors have good points. He stated he felt that up to five additional vehicles a day will not have an impact. There will only be three to four vehicles a week. He indicated that the dust can be controlled with additional gravel. He said he had spoken with an attorney and was told there is a liability issue now and approval of the special permit would not change that or add to the liability. He said there are already other neighbors with home businesses and he didn't believe they had obtained the necessary permits but he and Mrs. Anderson want to comply with the law.

Mr. Meadows stated that the BZA does not deal with covenants, that they are a civil matter between the property owners.

Mrs. Bowen said a liability issue would be a civil matter.

Mrs. Tracy Gallehr agreed that a liability issue would be a civil matter.

Mr. Lofdahl asked if UPS and FedEx make deliveries and Mr. Anderson said yes.

Mrs. Gallehr said she could not give legal advice on the issue that it was a civil matter.

Mr. Tufts asked how many clients per week did Mrs. Anderson anticipate.



Mrs. Anderson said 3 to 4 clients per week and they would not come in inclement weather.

On motion made by Ms. Addison and seconded by Mr. VanLuven and Mr. Tufts, in application No. 49445, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006 (1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.
5. The special permit is granted subject to the following conditions, safeguards and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance):
  - (a) business located in 150 square feet of the home.
  - (b) hours of operation will be Tuesday, Thursday and Friday from 9:30am to 3:00pm. and Saturdays 10:00am to 2:00pm.
  - (c) there will be no sign.
  - (d) the special permit will not convey with the sale of the property.
  - (e) the special permit is granted for a period of three years.
  - (f) maximum of five clients per week.
  - (g) only one full time employee is permitted.
  - (h) clients by appointment only.

The motion carried unanimously.

**SPECIAL PERMIT #49451 HEIDI DECONDE (OWNER) & TONY HORKAN  
(CONTRACT OWNER)**

Applicants are requesting to amend the special conditions of a special permit issued October 3, 1991 for an indoor technical school (martial arts studio). The applicant/owner wishes to amend the special permit by expanding the school to both floors of the structure, expand the maximum class size from 30 to 50, expand the hours of operation to 9:00am to 9:00pm and permit classes to be held Monday through Saturday. The property is zoned VC and is located at 9151 John Mosby Highway Upperville, Virginia, Marshall Magisterial District.

Mr. Hodge stated that a site visit was made that morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Tony Horkan appeared at the meeting representing his special permit. He stated that the report given by Mr. Hodge was correct.

Mr. Lofdahl called attention to the limit of four classes per day.

Mr. Horkan said that was correct. He also stated that he had operated for eleven years with no complaints to his knowledge and he had the support of the community.

Mr. Lofdahl asked if Mr. Horkan told the students where to park.

Mr. Horkan said he gave a parking notice to the students when they enrolled, however it is difficult to enforce it 100%.

Mr. Meadows asked why Mr. Horkan could not enforce the parking 100%.

Mr. Horkan said that sometimes people other than parents pick up the students.

Mr. VanLuven asked if there was adequate parking for thirty and he replied that there are fifteen parking spaces at the church.

Mr. VanLuven wanted to know if the structure was sound for fifty people.

Mr. Horkan said he feels it is sound. The exterior needs maintenance but that it was the former Town Hall of Upperville that held high volumes of people.

Mr. Meadows asked if Mr. Horkan had contacted the building official about the load the building can handle.

Mr. Horkan said he has not contacted the building official.

Mr. Tufts asked about the ingress/egress for the fire department.

Mr. Horkan had not looked into that.

Mr. Lofdahl asked if there are sprinklers.

Mr. Horkan said no but he has added wall thickness for fire protection.

Mr. Lofdahl asked if there was only one staircase and could people be trapped on the top floor.

Mr. Horkan said that had been addressed and there would be ladders out the window.

Ms Annette Culver Penney stated the business was right at her side door and that traffic has been a problem for many years. When there are classes, there is always a line of traffic. In 1991 she did not object to the classes on Tuesdays, 4:00pm – 7:00pm. But since then the school has grown and the noise and traffic has become a problem. She further stated that if the building was air conditioned the noise may not be as great a problem as it is now. She felt it an inappropriate place for the school and that there is space to rent at the Community Center where there are plenty of parking spaces. She stated her main objections are traffic, safety and parking.

Morris Met stated he had purchased the adjacent property to the east in February. He said the students and parents are belligerent when asked not to park on his property and they trespass, park on Route 712, angle park on Route 50, use his driveway for parking, climb on his fence, the one toilet facility is not the best, there is no place to wash hands and sometimes students relieve themselves on his property. These things have brought stress to the quiet enjoyment of his property.

Mr. Meadows referred to the original minutes of 1991 and 1993 indicating no parking signs were to be installed on the side of the building and along Route 712.

Mr. Horkan said he put up the no parking signs, however they were taken down by the owner.

Mr. VanLuven asked if he had a contract on the building.

Mr. Horkan stated he did and addressed the concerns of the adjacent property owners. He said he was limiting the class time from 4:00pm – 8:00pm and he would install air conditioning.

Mrs. Bowen asked for the updated agreement with the church for off street parking.

Mr. Horkan stated he only has the original agreement from 1991 with the church. He spoke with the minister and the minister said it would be no problem. Mrs. Bowen said Mr. Horkan should check the health department requirements, obtain an up to date agreement with the church and put up no parking signs so he would not be in violation of his original permit

On motion made by Mr. Meadows and seconded by Mr. Tufts, the application be deferred until July 11, 2002. The public hearing is closed.

The motion carried unanimously.

**SPECIAL PERMIT #49460 WILLIAM E. & PAMELA S. BRANDENBERG (OWNERS)  
& GARY SLATTERY (CONTRACT OWNER)**

Applicant is requesting special permit approval to locate a small contracting business for a small landscaping company. The applicant will have a greenhouse of approximately 1,500 square feet and grow stock (shrubbery, trees) on the site. The subject property is zoned RA and is located at 9362 Ada Road, Marshall, Virginia, Marshall Magisterial District.

Mr. Hodge stated that a site visit was made that morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Gary Slattery appeared at the meeting representing his special permit. He stated that the report given by Mr. Hodge was correct, and that he had now settled on the property so he was the property owner. Mr. Slattery stated that there is a well of 250 feet with 25 gpm and he would not be using the pond for watering.

Mr. VanLuven asked if he was aware of the Health Department comment about facilities being available. Mr. Slattery said he was not aware of the comment.

Mrs. Bowen said that sanitation facilities are a requirement under the Building Code.

Mr. Slattery said there would be no retail sales for the public. There would be one part time employee on site.

Mr. Lofdahl asked how much equipment/machinery will be used.

Mr. Gary Slattery said there would be occasional use of equipment, and trucks would leave and return each day.

Mr. Barr asked if anyone else would like to speak.

Mrs. Wilson stated that the road is not fully paved. She also stated her concern that adjacent wells may dry up if Mr. Slattery uses an extensive amount of water.

Mr. Barr asked Mrs. Bowen if a site plan is required.

Mrs. Bowen said no site plan was required but that VDOT will have to approve the entrance.

No one else spoke in favor or against the application.

On motion made by Mrs. Mailler and seconded by Mr. VanLuven, in application No. 49460, it was moved to approve the special permit based on the Board's findings, due notice and hearing, as provided by Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006 (1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.

**5-203 Additional Standards for Small Contracting Business**

1. The minimum lot size requirement shall be five (5) acres.
  2. All off-street parking and loading spaces, storage and loading areas, storage and structures which are related to such use shall be located not less than fifty (50) feet from any lot line.
  3. Not more than five (5) persons shall be engaged in the on-site operation of the business.
  4. Not more than five (5) vehicles in excess of  $\frac{3}{4}$  ton and/or pieces of equipment shall be operated from the site or stored there overnight.
  5. Such a use shall have direct access to a road designated as a major collector (or higher) in the Comprehensive Plan unless the BZA finds that the type and amount of traffic generated by the particular use is such that it will not cause an undue impact on the neighbors or adversely effect safety of road usage.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)
- (a) hours of operation will be 8:00am to 5:00 pm, Monday through Friday
  - (b) one part-time employee is permittd on the site
  - (c) VDOT approved entrance

The motion carried unanimously.

**VARIANCE #49468 REBECCA MARIE HINDRICHS (OWNER) & JAMES HRICKO (ARCHITECT)**

Applicant is requesting a variance from the front yard requirement for an addition to an existing nonconforming structure, to be located 13 feet from the centerline of Poplar Row Street. The subject property is zoned CV and is located at 9030 John S. Mosby Highway, Upperville, Virginia, Marshall Magisterial District.

Mr. Hodge stated that a site visit was made that morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mrs. Rebecca Hindrichs appeared at the meeting representing her variance. She stated that the report given by Mr. Hodge was correct.

Mr. Bernard Hindrichs gave the historical background of the property, and stated they he and his wife are trying to retain the historical integrity of the property with the construction.

Mr. Lofdahl asked if the property has water and sewer.

Mr. Hindrichs said they own the well and the General Store owns the sewer. There is an easement recorded in 1977 for the water and sewer.

No one appeared to speak other than Mr. and Mrs. Hindrichs.

On motion made by Mr. VanLuven and seconded by Mr. Lofdahl, in application No. 49468, it was moved to approve the variance based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15-2.2204:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the closeness of the house to the property line.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of:
  - (a) the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.

5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property is: the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as amendment to the Ordinance.
9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
10. The minimum variance that is necessary to afford relief is:
  - (a) 32 feet from centerline of Poplar Row Street.

The motion carried unanimously.

**VARIANCE #49479 LAURIE J. ENRIGHT (OWNER)**

Applicant is requesting to amend variance #29172 granted by the Board of Zoning Appeals, August 4, 1988. The applicant wishes to have a goat in addition to two horses permitted under the variance. The property is located at 6735 Bridle Path, Warrenton, Virginia, Scott Magisterial District.

Mr. Hodge stated that a site visit was made that morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Ms. Laurie Enright appeared at the meeting representing her variance. She stated that the staff report given by Mr. Hodge was correct. She stated that when she purchased the property in August, 2000 she was not made aware of the variance. When she brought three horses to the property, her neighbor informed her of the variance.

Mr. Meadows asked about the large amount of hay. Ms. Enright said that she brings round bays of hay to the property.

Mr. Meadows questioned Ms. Enright as to how she disposes of the manure.

Ms. Enright said it is at the back of the lot.

Mr. Robin Heckathorn, a mounted policeman with the park service, lives adjacent to the property and stated that there have been three horses, two goats and several dogs on the property at different times. The manure is not removed and there is an odor.

Mrs. Lisa Heckathorn said she made Ms. Enright aware of the variance and that she was in violation. She says the odor and pests chase them out of their yard. She would be agreeable to the goat if Ms. Enright removed one horse.

Mr. Meadows asked if the fence runs parallel with the barn.

Ms. Enright said the original fence was perpendicular and that she had added additional fencing.

Mr. Meadows asked if additional screening would be helpful.

Mrs. Heckathorn said screening was not the problem. The odor and pests are the problem. She cannot open the windows in her home because of the problems.

Ms. Kitty Enright says currently there are one dog, two horses and one goat on the property. She also mentioned the letter of support from the Evans, also adjacent property owners.

Mr. Merle Fallon, an attorney representing Robin and Lisa Heckathorn, said Ms. Enright has not complied with the variance since she became the property owner. She only made application to bring the violation into compliance. To grant the variance will cause Mr. and Mrs. Heckathorn to pursue a nuisance law suit.

Mrs. Mailler clarified that the original variance was granted because the barn could not be done within the setbacks.

Mr. Lofdahl asked the limit to the number of animals you can keep.

Mrs. Bowen said the Zoning Ordinance states that you need two acres for livestock. There is no limit to the number but the barn was not located the required 100 feet from the property lines. The Zoning Ordinance does not limit the number of animals on the site just the setback for a barn or stable.

Mr. Meadows stated that it is Ms. Enright's obligation to meet the variance even though she was not made aware of it prior to her purchase of the site.

Mrs. Bowen said Ms. Enright has been working with the office. If the goat does not go in the stable there is no violation.

Mrs. Heckathorn stated again that Ms. Enright had been in violation since last year.



No one else spoke in favor or against the application.

Upon motion made by Mr. Meadows and seconded by Mrs. Mailler the application be deferred until July 11, 2002. The public hearing is closed.

The motion carried unanimously.

**SPECIAL PERMIT #49482 L. HENRY AND MADGE M. EICHER (OWNERS) & KIP'S EROSION CONTROL (LESSEE)**

Applicants are requesting special permit approval for a contractor's office with associated equipment storage for an erosion control service. The property is located at 10041 James Madison Highway, Warrenton, Virginia, Lee Magisterial District.

Mr. Hodge stated that a site visit was made that morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Gary Green (Kip's Erosion Control) appeared at the meeting representing his special permit. He stated that the staff report given by Mr. Hodge was correct. Mr. Green stated that he would make the property neat and completely screen the equipment.

Mr. Meadows stated that the traffic is increasing on Route 29. Kip's would have less traffic than the 7-Eleven but asked if the trucks would be single wheel or tractor-trailers.

Mr. Green said that it would be single wheel trucks with trailers.

Mr. Meadows stated he was concerned about the trucks pulling out on Route 29 at a slow pace.

Mr. Green said they would not accelerate any slower than the tractor trailers pulling out of other businesses along that route.

Mr. Lofdahl asked if the equipment would be to the rear of the property.

Mr. Green said the equipment would be completely screened.

Mr. Barr excused himself and Mr. Meadows was acting Chairman.

Mr. Hodge called attention to the fact everything would be in the building or completely screened.

Mr. VanLuven stated the traffic is a problem but that is an area where we want business.

Mr. Green said the traffic light helps.

Mr. Tufts called attention to the VDOT comment.

Mr. Green asked if he would have to submit a site plan.

Mrs. Bowen said a minor site plan or an amendment to the original site plan would be required, that the for the storage area and fencing was new to the site and that Mr. Green should contact Doug Morgan for an appointment.

Ms. Christine Cominsky spoke in favor of the special permit stating Fauquier County is business friendly.

Mr. Sami Sharikas spoke in favor of the special permit. He commented that Kip's will not have an impact by adding only 15 vehicles to the current traffic on Route 29. He also said that Kip's will have fewer employees and less hours of operation than 7-Eleven.

Mr. Barr returned as Chairman.

Mr. Jerry Carter, Liberty High School, spoke in favor of the special permit. He stated that Mr. Green was supportive of the high school and did work there.

No one else spoke in favor or against the application.

On motion made by Mr. Tufts and seconded by Mrs. Mailler, in application No. 49482, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by the Code of Virginia Section 15.2-2204:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards that apply to the use in question.
5. The special permit is granted subject to the following conditions, safeguards and Restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)
  - (a) site plan approval as required

(b) Special permit is approved for five years from date of site plan approval.

**VARIANCE #49483 DAVID A. ROBERTSON (OWNER)**

Applicant is requesting a variance to the side yard setback requirement to locate an attached garage. The property is zoned R-1 substandard and is located at 5026 Dogwood Drive, Warrenton, Virginia, Scott Magisterial District.

Mr. Hodge stated that a site visit was made this morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes. He stated that the lot was smaller in size than that required by the R1 zoning district and due to the location of the well and septic tank this location had been chosen.

Mr. David Robertson appeared at the meeting representing his variance. He stated that the report given by Mr. Hodge was correct and that he was trying to upgrade his older home.

No one else spoke regarding the variance request.

On motion made by Mr. Lofdahl and seconded by Ms. Mailler, in application No. 49483, it was moved to approve the variance based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15.2-2204:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the closeness of the existing dwelling to the side property line.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.
5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property is the closeness of the existing dwelling to the side property line.
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably

practical the formation of a general regulation to be adopted as amendment to the Ordinance.

9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
10. The minimum variance that is necessary to afford relief is 3 feet.

The motion carried unanimously.

**SPECIAL PERMIT #49486 MOUNT OLIVE BAPTIST CHURCH TRUSTEES (OWNERS)**

Applicants are requesting special permit approval to construct additions to an existing place of worship. The property is zoned Village and is located at 2932 Atoka Road, Rectortown, Virginia, Marshall Magisterial District.

Mr. Hodge stated that a site visit was made this morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Raymond Brown, trustee, appeared at the meeting representing his special permit. He stated that the report given by Mr. Hodge was correct. Mr. Brown said the church was over 130 years old and has a good relationship with the neighbors.

No one else appeared to speak to the request.

On motion made by Mr. Lofdahl and seconded by Mr. Meadows, in application No. 49486, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards that apply to the

use in question

**5-601     Standards for All Category 6 Uses**

No off-street parking or loading area shall be located within any required yard or within 25 feet of any lot line in or adjoining a Residential or Rural District.

**5-602     Additional Standards for Places of Worship**

Uses proposed in conjunction with places of worship shall be subject to regulations applicable to such use (e.g., schools, athletic facilities).

5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)

(a) site plan approval as required.

The motion carried unanimously.

**BZA TRAINING** Mrs. Bowen stated that the training session had not be scheduled because of scheduling conflicts but that Doug Morgan was the new president of VAZO, Region 5 and it was hoped to reschedule the session for Fall.

**ADJOURNMENT:** There being no further business before the Board, the meeting adjourned at 5:14 P.M.

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William W. Barr, Chairman

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Margaret Mailler, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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